

### REMARKS

The present application has been reviewed in light of the Office Action dated March 13, 2003. Claims 7-10 and 13-18 are presented for examination and have been amended to define Applicant's invention more clearly. Claims 7, 9, 13, and 15 are in independent form. Favorable reconsideration is requested.

The Office Action states that Claims 3-6 and 15-18 are rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite. Claims 3-6 have been canceled, thus rendering their rejections moot. Applicant has reviewed and amended Claims 15-18, as deemed necessary, to ensure that they conform fully to the requirements of ¶ 2 of § 112, with special attention to the points raised in sections 2 and 3 of the Office Action. Applicant submits that amended Claims 15-18 are sufficiently definite and respectfully request withdrawal of the rejections.

The Office Action states that Claims 1, 3, 4, 7, 9, 11, 13, 15, and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,101,244 (Okada) in view of U.S. Patent No. 6,240,445 (Kumar et al.); and that Claims 2, 5, 6, 8, 10, 12, 13, 17, and 18 are rejected under § 103(a) as being unpatentable over Okada and Kumar et al. in view of JP 10-32671 (Yasumoto et al.). Cancellation of Claims 1-6, 11, and 12 renders their rejections moot. Applicant respectfully traverses the rejections and submits that independent Claims 7, 9, 13, and 15, together with the claims dependent therefrom, are patentably distinct from the cited prior art for at least the following reasons.

An aspect of the present invention set forth in Claim 7 is directed to a facsimile apparatus control method for performing facsimile communication via the Internet. According to

the method, either one of a first or a second facsimile communication mode is selected in accordance with a selected transmission mode. A communication unit, with a function for performing a first facsimile communication based on e-mail via the Internet and a second facsimile communication not based on e-mail via the Internet, is caused to execute a facsimile communication in accordance with an original size.

Okada relates to a communication terminal device that is able to send data via e-mail or as a facsimile. As understood by Applicant, Okada discloses that facsimile communication is selected if a desired sending time is within a time period set as an ISP peak time (see, for example, Fig. 2).

Kumar et al. relates to a system for receiving facsimile messages using an identifier appended to a shared telephone number.

Applicant submits that a combination of Okada and Kumar et al., assuming such combination would even be permissible, would fail to teach or suggest a facsimile apparatus control method that includes "causing a communication unit with a function for performing a first facsimile communication based on e-mail via the Internet and a second facsimile communication not based on e-mail via the Internet to execute a facsimile communication in accordance with an original size," as recited in Claim 7. Nothing in the cited references is understood to relate to performing an e-mail-based facsimile communication or a non-e-mail-based facsimile communication according to an original size.

Accordingly, Applicant submits that Claim 7 is patentable over the cited art, and respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a). Independent

Claims 9 and 13 include a feature similar to that discussed above, in which an e-mail-based facsimile communication or a non-e-mail-based facsimile communication is performed according to an original size. Therefore, those claims also are believed to be patentable for at least the same reasons as discussed above.

An aspect of the present invention set forth in Claim 15 is directed to a facsimile apparatus with a function for performing facsimile communication via the Internet. The apparatus includes a communication unit, a first registration unit, and a controller. The communication unit is adapted to perform non-e-mail-based facsimile communication via the Internet and e-mail-based facsimile communication via the Internet. The first registration unit is adapted to register a signal delay time to a receiving destination. In accordance with a registered signal delay time, the controller selects either a non-e-mail-based facsimile communication mode or an e-mail-based facsimile communication mode, and causes the communication unit to execute a facsimile communication in accordance with the selected facsimile communication mode. The controller selects the e-mail-based facsimile communication mode when the registered signal delay time for a receiving destination to which facsimile data is to be sent is equal to or longer than a predetermined time, and selects the non-e-mail-based facsimile communication mode when the registered signal delay time for the receiving destination is shorter than the predetermined time.

Applicant submits that a combination of Okada and Kumar et al., assuming such combination would even be permissible, would fail to teach or suggest a facsimile apparatus that includes "a first registration unit, adapted to register a signal delay time to a receiving

destination," and "a controller, adapted to select either a non-e-mail-based facsimile communication mode or an e-mail-based facsimile communication mode in accordance with a registered signal delay time, and to cause said communication unit to execute a facsimile communication in accordance with the selected facsimile communication mode," wherein "said controller selects the e-mail-based facsimile communication mode when the registered signal delay time for a receiving destination to which facsimile data is to be sent is equal to or longer than a predetermined time, and selects the non-e-mail-based facsimile communication mode when the registered signal delay time for the receiving destination is shorter than the predetermined time," as recited in Claim 15.

Applicant respectfully submits that the criteria used to select either e-mail-based or non-email-based facsimile communication in Claim 15, that is, the registered signal delay time to a receiving destination, is quite different from the ISP peak time of Okada.

The Office Action states that because "the signal delay to a calling destination and the predetermined time are not clearly defined and described," the ISP peak time of Okada is interpreted to correspond to the predetermined time, and Okada's current time Okada is interpreted to correspond to the signal delay time. Applicant respectfully traverses such a characterization, and submits that one of ordinary skill in the relevant art would understand that *a signal delay time to a receiving destination* corresponds to a signal propagation delay time between a sending destination and a receiving destination.

Further, as described on page 2, lines 1-3, of the specification, the signal delay

may be a propagation/transmission delay via the Internet.<sup>1</sup> Accordingly, it is clear that the current time of Okada does not correspond to the signal delay time of Claim 15.

Furthermore, the ISP peak time of Okada is a time *period* during which the ISP (Internet Service Provider) may be busy (see column 5, lines 42-45). In contrast, the predetermined time of Claim 15 corresponds to a threshold value for comparison with the signal delay time.

Therefore, Okada is not seen to disclose or suggest the feature of selecting either an e-mail-based facsimile communication or a non-e-mail-based facsimile communication in accordance with whether a signal delay time to a receiving destination is longer than a predetermined time. Neither Kumar et al. nor Yasumoto et al. are understood to remedy the deficiencies of Okada. Accordingly, Applicant submits that Claim 15 is patentable over the cited art, and respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a).

The other rejected claims remaining in the present application depend from one or another of the independent claims discussed above, and therefore are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

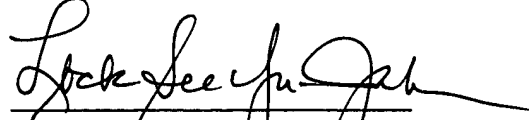
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1 It should be understood that the examples presented herein are provided solely for illustrative purposes; it should be construed that the present invention is limited in any way to such examples.

CONCLUSION

Applicant's undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,



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